Gen'l. 11-37—50,000—27-10-41

Home **(194) Department.**

Ms. **SERIES.**

G.O. No. 2048

Dated 6th June 1942

[Despatch Abstract.]

Fees - Government Pleader, Bellary - A.S.No. 99/39 - District Court, Bellary - Payment of special fee - Refused.

Sectt. II-74—20,000—14-10-36.

Home Department.

C. No. 426 (S) 7/42

List of records put up.

Number.	Date.	Department.	Signature of Clerk putting up the paper.	Signature of Clerk removing the paper.
G.O. 3868	7-11-40	L.A. (8Z)		
" 1	3-1-41	Revenue	Jayaramayya 14/42	
" 3091	8-7-41	Home		
" 4350	26-6-40	" 7		
" 3720	18-8-41	" } 8cs		
" 253	27-1-42	Revenue.	Jayaramayya.	

C.P. 22.

Revenue Department

UNDER SECRETARY TO GOVERNMENT
Received 1 APR 1942
HOME DEPT.
ASSISTANT SECRETARY TO GOVERNMENT
25 APR 942
Registered
HOME DEPARTMENT

From (Name) S.Y.Krishnaswami, Esq. I.C.S.,
Designation Secretary,
Station Board of Revenue

To The Secretary to Government,
Home Department.

4260 F
25/4/42

Enclosures Refce.A--No. 902/42-1 dated the 7th April 194 2.

Sir, Suits - (Bellary) - District Court - A.S.No.99/39 - Special fees to Government Pleader, Bellary - Payment Board's remarks - Submitted -

F.W.Stewart, Esquire, C.I.E., M.C., I.C.S., Commissioner of Land Revenue.

Read the following papers:-

Letter from I.M.Fraser Esquire, I.C.S., Collector of Bellary, R.O.C.No.A-1-4189/41 dated the 25th February 1942.

The attention of the Board is invited to B.P.Misc., No.1772 dated the 28th June 1938, in which it sanctioned the defence of the suit instituted in O.S.No.559/36 in the District Munsif's Court, Bellary. The suit ended in success and the rights of the Municipality and the Government were vindicated by the decree dated the 25th August 1939 of the District Munsif Bellary. The defendant then filed an appeal in A.S.No.99/39 in the Court of the District Judge, Bellary and it was dismissed with costs on 6th March 1941. In the decree passed, the District Judge has ordered that the appellant had to pay Rs.25/- to the first respondent, viz., the Pleader for the Municipality Sri K.Kesava Rao and Rs.25/- to the Pleader for the second respondent, viz., the Government Pleader Sri N.Mrutyanjaya sastri but the Government pleader sent a bill for Rs.50/- claiming the full fee for himself. His attention was then drawn to the decree passed by the District Judge and he was asked to revise the bill for Rs.25/-. He contended that he is entitled for the full fee for reasons stated by him in his reply No. 182 dated 24-5-1941, a copy of which is enclosed together with this Office Refce.No.S.R.A.1-6/38 dated 17-5-1941. The matter was then referred to the District Judge, Bellary, asking him to state whether the full claim may be allowed to the Government Pleader, Bellary. He informed me that the Government Pleader deserved the fee of Rs.50/- though the decree passed allowed him Rs.25/- and the Pleader for the Municipality Rs.25/-. The Commissioner, Municipal Council was then asked to report whether the sum of Rs.25/- allowed in the decree to the Pleader for the Municipality may be paid to the Government Pleader, Bellary. He reported that it was only fair that the Municipal Vakil should get his share of the fee as found in the decree. Then my predecessor Mr. A.D. Crombie, considered that the engagement of a separate vakil on behalf of the Municipality was against the instructions contained in Rule 10 published in G.O.No.3868 Local Administration dated 7th November 1940. He asked the Municipality to remit Rs.25/- towards the cost of the suit and passed the contingent bill for Rs.50/- for payment.

2. Later on the Commissioner, Municipal Council, Bellary urged that G.O.No.3868 Local Administration dated the 7th November 1940 referred to above was issued in November 1940 and the suit in question was entrusted to the Municipal adviser so long ago as 1939 and that the provisions of the G.O. could not therefore be applied to the present case. He requested that the Orders issued by my predecessor should not be enforced. As the decree passed by the District Judge said that half the fee should go to the Pleader whom the Municipality engaged, I referred the contention of the Municipality again to the Government

Government Pleader and asked him to refund the extra sum of Rs.25/- paid to him, upon which he stated that the fee of Rs.50/- claimed by him was based upon the actual amount of work involved and also the number of days of work and that the sanction of the fee was not - dependent on the claim of the Pleader for the Municipality nor was it dependent on the applicability of G.O.No.3868 Local Administration dated the 7th November 1940. In these circumstances, the District Judge was requested to furnish information regarding the number of occasions on which the appeal had been adjourned, the dates on which the Government Pleader, Bellary had argued the case and the duration of each sittings. The District Judge replied that the material papers in the above appeal were submitted to the High Court for reference in second appeal No.945/41 on its file and that from the records available in his Office it was seen that the appeal had been heard on 3 days the 13th, 27th and 28th February 1941 and that the duration of each sitting was not noted in Civil cases. The Government Pleader, Bellary states that the appeal was heard for about 4 hours on 13-2-1941, and 27-2-1941 and for about 3 hours on 28-2-1941, and further adds that in view of the difficult questions of fact and law and the labour involved in the case, he claimed the fee of Rs.50/-.

3. According to Board's(Confdl) Refce No.H.3081/36.1 dated the 19th January 1937, the Government Pleaders are allowed Rs.3/- for an adjournment and Rs.7/- for an hour's actual work in court (corresponding to Rs.35/- for 5 hours day). The Government Pleader should therefore be paid Rs.77/- for the 11 hours work which he did in the Court, but he has claimed only Rs.50/- of which Rs.25/- is in excess of the regulation fee fixed in the decree by the District Judge.

4. In these circumstances, I request that the Board be pleased to accord sanction to payment of Rs.25/- in excess of the regulation fee to the Government Pleader, Bellary.

- - - -

Copy of letter No.S.R.6/38-A.1, dated the 17th May 1941 from the Collector of Bellary to the Government Pleader, Bellary.

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According to the decree passed in Appeal No.99 of 1939 on the file of the District Court, Bellary, the Pleader for respondent No.1 (Municipality) is eligible for Rs.25/- and the Pleader for respondent No.2(Government) is eligible for Rs.25/- and according to the Certificate of the District Judge on the reverse of the contingent bill presented by you, a fee of Rs.50/- has been fixed as -- Pleader's fee for both the respondents (i.e) Bellary Municipality and the Government). Even according to the judgment a 'one fee' of Rs.50/- is ordered. In the circumstances you are eligible only for a fee of Rs.25/-. Please revise the enclosed contingent bill accordingly.

- - - -

Copy of letter No.G.P.182 from the Government Pleader, Bellary, dated the 24th May 1941.

Re-submitted. The judgment fixed awarding only one set of costs. The case was argued at length and solely by me on 2 days, viz., 13th and 28th February, the Pleader for first respondent only saying he supports my arguments. For the purpose of the decree the fee has been split into 2 halves which means only Rs.25/- can be recovered by Government from the appellant and another Rs.25/- by the Municipality - totalling in all Rs.50/- only, but the Government - Pleader is entitled to Rs.50/-, as the estimate of the work involved which is only one set Rs.50/- the court did not award 2 sets as there was a common contention both by the Municipality and the Government.

I am also justified in claiming on the basis of the number of days work on both days the work occupying 3½ to 4 hours each day. The claim may therefore be allowed.

:-:

REFERENCE.

Submitted to the Government.

3

2. The Board is unable to see that the Collector has based his recommendation on the work done by the Government Pleader. It is always likely that when two Pleaders appear to support the same contentions, one will do the work and the other say he agrees. This is merely a matter of mutual - arrangement and does not justify paying the first a special fee. The Board therefore considers that no special fees need be paid to the Government Pleader, Bellary in excess of that allowed in the decree in the present case.

N. Rajagopalan
for Secretary.

:-:

c.n.n./9-4-1942.

Home Dept. 5

4/30-4

1/5

Memo. No. 426 (O) 7/42-1 dated 30-4-42

Suits - (Bellary) - A.S. No. 99/39 — Dt. Court, Bellary

Spl. fee to Govt. Pleader - Ref: from the Board of

Revenue Ref: A No. 902/42-1 dated 7.4.42.

The Board of Revenue is requested

to send urgently a copy each of its B.P. Misc.

No. 1772 dated 28.6.1938 and its confdl. Ref.

No. H. 3081/36-1 dated 19.1.1937 for reference.

28-6-1942

29/4

To the Board of Revenue. 29/4

(R.D. after 3 weeks)

C.F. 32.

REVENUE Department

From (Name) S.Y.Krishnaswami Esqr., I.C.S.,

Designation Secretary.

Station Board of Revenue, Salem.

Received 7 1 [illegible]

Registered 6 MAY [illegible]

To

The [illegible]

7 7900(2) 26-5-42

Enclosures: Reference No. A.902-42-2 dated 4th May 1942.

Sir,

F.W.Stewart Esquire, C.I.E., M.C., I.C.S.,
Commissioner of Land Revenue.

Subject:-

SUITS - (Bellary) - District Court - A.S.No. 1939 Special fees to Government Pleader, Bellary -payment.

Read - the following: -

Government Memorandum No. 426 (O) F/42,-1, Home department, dated 30-4-1942.

REFERENCE:-

Copies of Board's Resolution Misc., No. 1772 dated 28-6-38 and of Board's reference No. H.3081-36-1 (Confdl.,) dated 19-1-37 - are submitted.

N. Krishnaswami
For Secretary,

To
The Secretary to Government,
Home Department with enclosures.

P.T.S., 4/5.

(1)

Copy of B.P. No. Misc., 1772, dated 28-6-1938.

Subject:-

SUITS - (Bellary) - Bellary District Munsiff -O.S. No. 559/36, Bellary Town - Encroachment.

Read - the following: -

(i) Letter from the Collector of Bellary, No. Ref.5839/37-A-1, dated 10th March 1938.
(ii) Letter from the Collector of Bellary, No. Rc.A1-5839/37 dated 9-6-38.
(iii) Letter from the Collector of Bellary, No. Ref.A-1-5839/37 dated 14-6-38.

RESOLUTION:-

The Board sanctions the defence of the suit and approves the drat written statement submitted by the Collector.

(True Extract)

(Sd) V.R.Krishnaswami Ayyar,
For Secretary,

To The Collector of Bellary,
with 2 sketches returned.

P.T.O.

Copy of Board's Reference Confidential H.No.3081/36-1 dated the 19th January 1937. - Paragraph 1 only.

- 1 -

SUITS - Payment of fees to Pleaders doing Government work - Instructions issued.

REFERENCE:-

The Board observes that in the matter of payment of special fees to Pleaders no standard has been fixed for the guidance of Collectors with the result that no uniform standard is adopted by the Collectors in their recommendations and frequently no reasons are given for reducing the claims put in by the pleaders doing Government work. The Board therefore circulates for the guidance of Collectors the following scale of rates for application when the conduct of the case has been entirely satisfactory.

(a) Government Pleaders - Rupees 3 for an adjournment and Rs.7/- for an hour's actual work in court (corresponding to Rs.35/- for a 5 hour day).

(b) Local pleaders doing Government work -corresponding fees at Rs.2/- and Rs.5/-

If a Government Pleader, also appears in Court with the local Pleader the Local Pleader should be allowed for such hours of work in courts a fee at Rs.2-8-0 per hour. If a Government Pleader has to go to an out-station and is thereby precluded from taking any work other than that on behalf of the Government, a fee of Rs.35/- representing a full day's work should be allowed.

The Collectors are informed that they should give full reasons for any substantial divisions from the scale given above when recommending fees in future.

** ** **

(Sd) D.I.R. Muir,
Joint Secretary,

To

The Collectors of all districts except Kistna Para. 1 only)
The Collector of Kistna, (with enclosures returned.)

9

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined ..		
When signed ..		
When despatched.		

Issue in M.O

SUBJECT:— Home Dept.

Fees - Govt. Pleader, Bellary - A.S.N: 99/39 - Dt. Court, Bellary - payment of spl. fee refused -.

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO*:— Collector of Bellary, Roc. No. A.1. 4189/41 dated 25.2.1942 Ref. A.

C. No. 426(0)7/42 From the Board of Revenue No. 902/42-1, dated 7.4.1942. ; pp 1-3 cf

" _____ " _____ " _____ " _____ 19____

" _____ " _____ " _____ " _____ 19____

~~Order~~ ~~Resolution~~ ~~Memt.~~ Ms. No. 2048, dated 6 6.42 19____

pp 2-3 n/s. The Govt. agree with the Board of Revenue's proposal cf. that no special fees need be paid to the Govt. Pleader,

10

in the decree passed in A.S.No. 99/39

Bellary in excess of that allowed by the court on the file of the Dt Court, Bellary

JM
3.6.1942.

Clerk
3.6.42

7/6
3/6

JM
3/6/42
1/6

✓ To the Board of Revenue.

✓ " Collector of Bellary.

Home (7) Dept.

Fees – Govt. Pleader, Bellary – A.S. No. 99/39 – Dt. Court, Bellary – Payment of spl. fee –

pp 1-3 ch c. 426. ⓒ 7. From the Board of Revenue, ref. A. No. 902/42-1 dated 7.4.42
pf 7 & 1. L c. 790. ⓒ 7. " " -2 " 4.5.42

In connection with A.S. No. 99/39 in the court of the Dt. Judge, Bellary in which both the Municipality and the Govt. were parties, the Municipality engaged its pleader and the Govt. Pleader, Bellary appeared on behalf of the Gov. The suit was dismissed, favourably to the Municipality and the Govt. and it was decreed that the appellant should pay Rs. 25/- towards fees of each of the 2 pleaders. But, for the reasons given at 'B' on p. 2 of, the G.P. claimed a fee of Rs. 50/- and the previous Collector has sanctioned the payment of this fee. He ordered also that as the engagement of a separate vakil on behalf of the Municipality was contrary to the instructions contained in rule 10 of the rules in Notification of the Annexures to G.O. No. 3868, L.A. dated 7.11.1940, the fee of Rs. 25/- paid to the Municipal Advocate should be recovered and credited towards the cost of the suit. The Municipal Commissioner requested that this latter order should not be enforced as the Municipal Advocate was entrusted with the case long before the instructions in question were issued. The present collector seems to agree with the contention of the Municipal Commissioner and requests sanction to the payment of Rs. 25/- in excess of the regular fees (Rs. 25/-) to the G.P, Bellary, for the reasons mentioned

2/ A

in paras 2 and 3 of his letter at pp 1-2 c.f. For the reasons given in para 2 of its reference, the Board of Revenues does not recommend the payment of any spl. fee.

2. Under S.O. 12 in Part I of the Annexures to G.O. No. 4350, Home dated 25.10.1940, as amended by G.O No. 3720, Home dated 18.8.1941, Govts are eligible only for the regulation fee in civil cases including those relating to execution petitions, other than connected cases but the Govt. have discretion to sanction enhanced fees in exceptionally difficult cases. The case in question was heard on 3 days occupying in all about 11 hours. The Dist. Judge seems to be of the opinion that the G.P. deserves a fee of Rs. 50/-. It is not stated by the Collector that the case was an exceptionally difficult one. For the reasons given by the Board in para 2 of its reference, it is submitted for orders whether the Govt. may agree with it that there is no case for a spl. fee. R&A and Finance may see for remarks.

JHH 7.5.1942.

PCS 8.5.42

The Board's recommendation may be accepted

JH 8/5 RS

I agree with the Board. JT 10/5

G 12/5

R. A.

Fin.

Home No. 426(0) F/42 — 12.5.4.

13559

426(0)2/42

Z 5

S.A.D (A)

Please see the note of Home Dept. at pp 1-2 ante

2. The recommendation of the Board of Revenue at p 3 of may be accepted in S.A., and the file passed on to Finance no

ASSISTANT SECRETARY TO GOVERNMENT
2 JUN 1942
HOME DEPARTMENT

Ld 19/5
Cs 22/5
Sn 23/5
Lee 25-5-42
Fin.

Fin (E II).

dp 27/5

S. Accts 13559.14

27.5.42 p.3 C.F.

Please see all the notes on pp. 1-3 above. Finance may also agree with the Board of Revenue that there is no case for the payment of a special fee to the Govt Pleader, Bellary, in excess of that allowed in the decree (Rs 25) in the present case.

JOINT SECRETARY
28 MAY 1942
FINANCE DEPARTMENT, OOTY

Fin.U.O.2445 Fin
1.6.42.

NAS 1.6.42. Sn 1642

1/6 Home.

2204 (0) F
I 2/6/42 D
Hon

Home (J) Dept

Draft submitted.

JH 5.6.1942.
Pork 3.6.42.

7u 8/6

cc 3 4/6

Cs ...).

may be put away
Sn
Pork